IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.20189 of 1998

Dated: 07-03-2007

Between:

1. Sultan Ghalib Bin Awadh Al-Quaiti and 2 others.

... Petitioners

and

1. Union of India, rep.by Miliatary Estate Officer,
   A.P.Circle,
   Secunderabad and 3 others.

... Respondents

ORDER:

This writ petition is filed seeking *mandamus* declaring the inaction of respondents in not paying or determining the rents as well as the compensation for the property SAIF GULSHAN, situated in Sy.Nos.34/1, 34/2, 35/1, 35/2, 36/1/1, 36/1/2, 36/2 and 36/3 at Gudi Malkapur, Hyderabad, as arbitrary and illegal and consequently direct the respondents to forthwith take action under Section 8(1-b) of the Requisitioning and Acquisition of Immovable Property Act, 1952 (for short, 'the Act') to appoint an Arbitrator for expeditious resolution of the said dispute and payment to the petitioners.

2. Facts, in brief, are: The property viz., SAIF GULSHAN comprising of three big bungalows, open land with out-houses etc., belongs to the ancestors of the petitioners. The first respondent as per his proceedings No.AP/1002/Req/124, dated 23-08-1963 requisitioned the same for military purposes and consequently under Section 29(1) of the Defence of India Act, 1962, a notification of requisition of the said property was issued on 06-09-1963. The respondents conducted a panchanama dated 12-09-1963 and requisitioned the property and obtained possession under their control. On 03-02-1970 the second respondent issued a show cause notice as to why the said property should not be acquired and thereafter issued a final notification No.H3/996/70, dated 04-03-1970 under Section 7(1) of the Act.

The said notification was published in the A.P. Gazette, dated 12-03-1970 and thereby the said property absolutely vested with the first respondent. As per the provisions of the Act, the requisitioning and acquiring authority i.e. the Central Government is liable to pay rents for the period for which the property is under requisition as well as compensation if the property is later on acquired.

It is stated that so far as the lands in respect of the property in question are concerned an Arbitrator was appointed as per G.O.Ms.No.276, dated 29-03-1973 and he passed award on 24-09-1981. Questioning the said award various appeals were preferred being A.A.O.No.737 of 1981 and batch, which were decided by a Division Bench of this Court, vide judgment dated 15-04-1986. Against the said judgment various claimants preferred appeals being Civil Appeal Nos.2010 of 1986, 1975 of 1992 and 4406 of 1996 before the Apex Court, which were decided on 28-04-1987 and 05-11-1997 respectively and thus the dispute concerning to land was concluded.

3. The grievance of the petitioners is that the matter relating to the

bungalows remained undecided inasmuch as neither the competent authority appointed any Arbitrator nor there was any action by the respondents in releasing and/or determining the payment of rents or the question of compensation with respect to the buildings portion.

4. Heard learned counsel for the parties.

5. As the relief sought for in this writ petition itself is in a narrow compass i.e. for appointment of an Arbitrator as provided under Section 8(1-b) of the Act, this Court is of the view that the writ petition can be disposed of with a direction to the respondents to appoint an Arbitrator as provided for under the provisions of the Act within a period of four weeks from today, if not already appointed.

6. Accordingly, the writ petition is allowed. No costs.

_____

JUSTICE GOPALAKRISHNA TAMADA

Dt.07-03-2007
GLV